

**BEFORE THE NEBRASKA PUBLIC SERVICE COMMISSION**

<b>In the Matter of the Commission, on its own motion, seeking to investigate collection and remittance of enhanced 911 surcharge on prepaid wireless carriers.</b>	) ) ) ) ) )	<b>Application No. 911-013/PI-96</b>  <b>COMMENTS OF VERIZON WIRELESS</b>
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Verizon Wireless submits the following comments in response to the Commission's Order entered April 19, 2005, inviting comments from interested parties on or before May 20, 2005. Verizon Wireless provides prepaid wireless service, and therefore is an interested party. As Verizon Wireless demonstrates below, the Commission lacks statutory authority to impose an E-911 assessment on its prepaid wireless service.

**A. Nebraska Law Does Not Impose the E-911 Surcharge on Prepaid Wireless Service.**

Pursuant to *Neb. Rev. Stat.* § 86-457, a wireless carrier is required to collect the E-911 surcharge if the customer or subscriber has a Nebraska billing address and a billing statement is sent to such subscriber. *Neb. Rev. Stat.* § 86-457 provides in part as follows:

Each wireless carrier who has a subscriber with a billing address in Nebraska shall collect a surcharge of not more than fifty cents per month per access line. The wireless carrier shall add the surcharge to each subscriber's billing statement . . . . The surcharge shall appear as a separate line-item charge on the subscriber's billing statement and shall be labeled as "Enhanced Wireless 911 Surcharge."

The Commission promulgated and adopted Title 291 NAC Ch.5, § 005.02, which substantially mirrors *Neb. Rev. Stat.* § 86-457.

Section 86-457 restricts application of the E-911 assessment only to situations where a customer has a billing address and is issued a billing statement. Providers of prepaid wireless service cannot impose and label a separate line item charge, as required by the existing statute and regulations, since there is no billing statement.

The general statutory direction to the Commission to “determine the most efficient method for providing enhanced 911 service” and the general grant of authority providing the Commission “any powers necessary to carry out the intent and purposes of the Act” does not override the specific constraining language in section 86-457.

**B. Verizon Wireless’ Prepaid Wireless Service Cannot be Made Subject to the Surcharge.**

Prepaid wireless services would not fit within the statutory requirements where carriers do not establish a billing relationship with their customers. For example, Verizon Wireless offers **INpulse<sup>sm</sup>**, a pay-as-you go prepaid wireless service to customers who do not wish to or are unable to establish a long-term contract and pay for their service on a monthly basis. Under current plan options, a customer requesting to purchase prepaid wireless service may do so under the following conditions.

- (1) A Verizon Wireless phone is activated for prepaid service with a certain number of minutes which may be used immediately or, if unused expire 60 days after the first call is placed, unless a “refill” card is purchased;
- (2) A customer may purchase a refill card for herself or as a gift for others who have phones activated by Verizon Wireless for prepaid service. Refill cards may be purchased in the following amounts and for the number of days specified:
  - (a) \$15-\$29.99 expires in 30 days
  - (b) \$30-\$74.99 expires in 60 days
  - (c) \$75-\$149.99 expires in 90 days

(d) \$150 & above expires in 120 days

(4) Prepaid wireless customers do not provide billing addresses because they pre-pay for their service up-front. There is no need to send them a monthly bill. Charges for daily access or airtime usage are deducted automatically from their account balance. When the account balance reaches \$0 or when the expiration date is reached, Verizon Wireless suspends the service; customers wishing to continue service must then replenish their account by providing Verizon Wireless with another pre-payment;

(5) The customer purchasing the prepaid card does not necessarily reside or use the phone in the State of Nebraska.

As illustrated above, Verizon Wireless has no written contract with a prepaid wireless customer and no billing addresses for such customer. Moreover, Verizon Wireless does not send a monthly billing statement to prepaid wireless customers. As the governing statute relates only to customers who have a billing address in Nebraska and who are sent a billing statement from a wireless provider, wireless carriers are not obligated to collect and remit the E-911 surcharge from customers who do not meet those criteria.

**C. It Would Be Administratively Infeasible for Verizon Wireless to Assess and Collect the E-911 surcharge from its Prepaid Customers.**

Even if Verizon Wireless was required by law, which it is not, to assess and collect the E-911 surcharge from a prepaid customer, it would be administratively infeasible to do so. Since a prepaid customer does not have a billing address and does not receive a billing statement, Verizon Wireless would have to add the E-911 surcharge onto the purchase price at the point of sale. However, Verizon Wireless would not know if a customer would use up his or her entire allotment of minutes in the first month, even if the card had a 90-day expiration date. Due to the uncertainty of when a customer

would use his or her pre-paid minutes, it would be difficult to accurately and fairly assess customers. There is, in short, no feasible, non-discriminatory way to impose a monthly surcharge on prepaid services such as Verizon Wireless' INpulse service.

**D. Conclusion.**

For the reasons stated above, the Commission lacks authority to impose the E-911 surcharge on Verizon Wireless' prepaid service. Additionally, it would be administratively infeasible for Verizon Wireless to accurately and fairly collect an E-911 surcharge from wireless prepaid customers. Consequently, Verizon Wireless' prepaid service should not be assessed the monthly E-911 fee.

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VERIZON WIRELESS

BY:

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Steven G. Seglin (#13756)  
CROSBY GUENZEL LLP  
134 South 13<sup>th</sup> St., Suite 400  
Lincoln, Nebraska 68508  
(402) 434-7300 (phone)  
(402) 434-7303 (fax)  
[sgs@crosbylawfirm.com](mailto:sgs@crosbylawfirm.com)

and

Anne E. Hoskins  
Senior Counsel  
Verizon Wireless  
1300 I St. N.W., Suite 400 West  
Washington, DC 2005  
(202) 589-3770 (phone)  
(202) 589-3750  
[anne.hoskins@verizonwireless.com](mailto:anne.hoskins@verizonwireless.com)